There are a few cases similar to the principal case which are anomalous. These cases hold that where one through the necessity of business is compelled to submit to an illegal demand by a person or corporation having the power to refuse a right to which he is entitled, the parties are not on equal footing, and contracts made under circumstances are affected with duress. *McGregor* v. *Erie Ry. Co.*, 35 N. J. L. 89; *Chase* v. *Dwinal*, 7 Me. 134; *W. Va. Transportation Co.* v. *Sweetzer*, 25 W. Va. 434.

EVIDENCE — ADMISSIBILITY — UNCONSTITUTIONAL SEIZURE. — The police seized books and papers belonging to the accused, without warrant or authority; and, although he promptly demanded their return, they were held by the authorities for several years. Subsequently, the accused was convicted of a crime, on evidence obtained from such books and papers. *Held*, the conviction is reversed. *Flagg* v. *United States* (C. C. A.), 233 Fed. 481. See NOTES, p. 59.

EVIDENCE — STRIKING OUT — EFFECT. — In a trial for statutory rape, evidence calculated to greatly damage the defendant's case was erroneously admitted, but later withdrawn, and the jury was instructed not to consider it. The preponderance of the legitimate evidence clearly established the defendant's guilt; and the jury assessed the very lowest penalty allowed by the law. *Held*, the defendant was not prejudiced by the error in admitting the evidence, and the conviction is affirmed. *Miller* v. *State* (Tex. Cr. App.), 185 S. W. 29. See NOTES, p. 54.

FEDERAL EMPLOYERS' LIABILITY ACT—ACTION IN STATE COURT—JURY.—An action was brought under the Federal Employers' Act, and in the court of a state which by statute provided for a jury of seven. *Held*, the Seventh Amendment of the Constitution of the United States does not apply to actions under the Act in state courts, and the action may be tried by a jury of seven. *Chesapeake & O. R. Co.* v. *Carnahan*, 36 Sup. Ct. Rep. 594. See also, *Minneapolis & St. L. R. Co.* v. *Bombolis*, 36 Sup. Ct. Rep. 595. For principles involved, see 3 VA. L. REV. 312.

INSURANCE—STANDARD MORTGAGEE CLAUSE—CONSTRUCTION.—A building was insured by materialmen in the name of the owner; but, by means of a "rider" attached to the policy, the loss was made payable to them as their interest might appear. The policy also contained a standard mortgagee clause providing that the conditions of the policy should apply to the payee "in the manner expressed in such provisions and conditions of insurance relating to such interest as shall be written upon, attached, or appended thereto." There was no provision attached to the "rider" declaring in what manner the conditions should apply to the materialmen. After a condition of the policy had been violated by the owner, a loss occurred and the materialmen sued the insurance company. *Held*, the plaintiffs can recover. *Royal Ins. Co.* v. *Walker Lumber Co.* (Wyo.), 155 Pac. 1101.

Where one procures insurance in his own name but assigns the pol-

icy to another, the assignee's right to recover is dependent upon the assignor's performance of his contract; for the contract is with the insured, and must be performed by him. *State Mut. Fire Ins. Co.* v. *Roberts.* 31 Pa. St. 438; *Pupke* v. *Resolute Fire Ins. Co.*. 17 Wis. 378, 84 Am. Dec. 754. This is true also where the policy contains a provision directing the loss to be paid to the mortgagee or other third person; for such a provision is collateral to the principal contract, and the person designated as payee is merely an appointee of the fund. *Grosvenor* v. *Atlantic Fire Ins. Co.*, 17 N. Y. 391: *Dailey* v. *Westchester Fire Ins. Co.*, 131 Mass. 173. And it seems that the right of a lienholder, e. g., a mortgagee or materialman, who procures a policy in the name of the owner and pays the premiums thereon would likewise be defeated by the owner's breach of a condition. *Gillett* v. *Liverpool, etc., Ins. Co.*, 73 Wis. 203, 41 N. W. 78, 9 Am. St. Rep. 784; *Sias* v. *Roger Williams Ins. Co.*, 8 Fed. 187.

As to the effect on the rights of the payee of the addition of a standard mortgagee clause, the cases are in conflict. The federal courts and a few state courts still make the payee's right to recover dependent on the owner's performance of his contract, construing the mortgagee clause to apply only to cases where the insurer consented to some waiver or modification of the conditions of the policy. *Delaware Ins. Co.* v. *Greer*, 57 C. C. A. 188, 120 Fed. 916, 61 L. R. A. 137; *Vancouver Nat'l Bank* v. *Law, etc., Ins. Co.*, 153 Fed. 440; *Brecht* v. *Law, etc., Ins. Co.*, 160 Fed. 399, 18 L. R. A. (N. S.) 197; *Franklin Ins. Co.* v. *Wolff*, 23 Ind. App. 549, 54 N. E. 772. The weight of authority and the better reason seem to be in accord with the principal case in allowing the payee to recover regardless of any default on the part of the insured. *Oakland Ins. Co.* v. *Bank*, 47 Neb. 717, 66 N. W. 646, 36 L. R. A. 673, 58 Am. St. Rep. 663; *Queen Ins. Co.* v. *Dearborn Ass'n*, 175 Ill. 115, 51 N. E. 717; *Senor* v. *Western Mut. Ins. Co.*, 181 Mo. 104, 79 S. W. 687. These decisions are upheld by the principle that a contract should be so construed as to give effect to every part of it, and that the provisions of a policy should be construed most favorably to the insured. *Oakland Ins. Co.* v. *Bank*, *supra;* RICHARDS, INS., 3d ed., § 90.

INTERPRETATION AND CONSTRUCTION — EJUSDEM GENERIS — APPLICATION. — The uniform bill of lading prescribes as a condition of carriage that, at points where the carrier has no agent, property received from "private or other sidings" shall be at the owner's risk until the cars are attached to trains. Goods placed upon cars on a public siding were destroyed by fire, through no fault of the carrier, before they were attached to the train. *Held,* the expression "or other sidings" includes public sidings, and the carrier is not liable. *Standard Combed Thread Co.* v. *Pennsylvania Ry. Co.* (N. J. L.), 95 Atl. 1002. See NOTES, p. 57.

MARRIAGE—ANNULMENT—FRAUD.—A woman, who had previously borne an illegitimate child to another man, married solely to acquire the marital status, with the affirmative intention of leaving her husband after the ceremony. She did so immediately after the marriage. *Held,* such